



## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R04-OAR-2022-0092; FRL-10017-02-R4]

#### **Air Plan Approval; Kentucky; Emissions Inventory Requirements for the 2015 8-Hour Ozone Standard**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is finalizing approval of a State Implementation Plan (SIP) revision submitted by the Commonwealth of Kentucky, through the Kentucky Energy and Environment Cabinet (Cabinet) on December 22, 2021, to address the base year emissions inventory requirements for the 2015 8-hour ozone national ambient air quality standard (NAAQS) for Kentucky counties in the Cincinnati, Ohio-Kentucky 2015 8-hour ozone NAAQS nonattainment area (hereinafter referred to as the Cincinnati, OH-KY Area), and for Kentucky counties in the Louisville, Kentucky-Indiana 2015 8-hour NAAQS nonattainment area (hereinafter referred to as the Louisville, KY-IN Area). Specifically, EPA is finalizing approval of Kentucky's SIP revision addressing the emissions inventory requirements for the 2015 8-hour ozone nonattainment areas for the portions of Boone, Campbell, and Kenton Counties in the Cincinnati, OH-KY Area, and Bullitt, Jefferson, and Oldham Counties in the Louisville, KY-IN Area. These requirements apply to all ozone nonattainment areas. This action is pursuant to the Clean Air Act (CAA or Act).

**DATES:** This rule is effective [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

**ADDRESSES:** EPA has established a docket for this action under Docket Identification No. EPA-R04-OAR-2022-0092. All documents in the docket are listed on the [www.regulations.gov](https://www.regulations.gov) website. Although listed in the index, some information may not be publicly available, i.e.,

Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through [www.regulations.gov](http://www.regulations.gov) or in hard copy at the Air Regulatory Management Section, Air Planning and Implementation Branch, Air and Radiation Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960. EPA requests that, if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday 8:30 a.m. to 4:30 p.m., excluding Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Tiereny Bell, Air Regulatory Management Section, Air Planning and Implementation Branch, Air and Radiation Division, Region 4, U.S. Environmental Protection Agency, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960. The telephone number is (404) 562-9088. Ms. Bell can also be reached via electronic mail at [bell.tiereny@epa.gov](mailto:bell.tiereny@epa.gov).

## **SUPPLEMENTARY INFORMATION:**

### **I. Background**

On October 1, 2015, EPA strengthened the 8-hour ozone NAAQS, lowering the level of the NAAQS from 0.075 parts per million (ppm) to 0.070 ppm. *See* 80 FR 65292 (October 26, 2015).<sup>1</sup> Effective August 3, 2018, EPA designated the seven-county Cincinnati, OH-KY Area as a Marginal ozone nonattainment for the 2015 8-hour ozone NAAQS.<sup>2</sup> *See* 83 FR 25776 (June 4, 2018). In the same action, EPA also designated the five-county Louisville, KY-IN Area as a

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<sup>1</sup> The 2015 Ozone NAAQS was promulgated on October 1, 2015, published on October 26, 2015, and effective December 28, 2015.

<sup>2</sup> The Cincinnati, OH-KY Area consists of the following counties: Boone (partial), Campbell (partial), and Kenton (partial) in Kentucky and the entire counties of Butler, Clermont, Hamilton, and Warren in Ohio. EPA took action on the 2015 8-hour ozone NAAQS nonattainment area emissions inventory requirements for Butler, Clermont, Hamilton, and Warren Counties in Ohio in a separate action. *See* 86 FR 12270 (March 3, 2021).

Marginal ozone nonattainment for the 2015 8-hour ozone NAAQS.<sup>3</sup> The Cincinnati, OH-KY Area and the Louisville, KY-IN Area were designated nonattainment for the 2015 8-hour ozone NAAQS using 2014–2016 ambient air quality data. On December 22, 2021, Kentucky submitted a SIP revision addressing the base year emissions inventory requirements related to the 2015 8-hour ozone NAAQS for the Cincinnati, OH-KY Area and the Louisville, KY-IN Area.<sup>4</sup> CAA section 182(a)(1) requires the submission of a comprehensive, accurate, current inventory of actual emissions from all emissions sources in the nonattainment area, known as a “base year inventory.”

On July 26, 2022, EPA published a notice of proposed rulemaking (NPRM) proposing to approve the December 22, 2021, SIP revision regarding the base year emissions inventory submittal for the Cincinnati, OH-KY Area and the Louisville, KY-IN Area for the 2015 8-hour ozone NAAQS. *See* 87 FR 44310. More information regarding EPA’s analysis of Kentucky’s December 22, 2021, SIP revision and how Kentucky addresses the above-mentioned requirements is provided in EPA’s July 26, 2022, NPRM. Comments on EPA’s July 26, 2022, NPRM were due on August 25, 2022. No comments were received on EPA’s July 26, 2022, NPRM.

## **II. Final Action**

EPA is approving the aforementioned SIP revision submitted by the Commonwealth of Kentucky addressing the base year emissions inventory requirements for the 2015 8-hour Ozone NAAQS for the Cincinnati, OH-KY Area and the Louisville, KY-IN Area. EPA has determined

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<sup>3</sup> The Louisville, KY-IN Area consists of Bullitt, Jefferson, and Oldham Counties in Kentucky and Clark and Floyd Counties in Indiana. EPA took action on the 2015 8-hour ozone NAAQS nonattainment area emissions inventory requirements for Clark and Floyd Counties in Indiana in a separate action. *See* 87 FR 39750 (July 5, 2022).

<sup>4</sup> On October 15, 2020, the Cabinet submitted a certification that included other required elements for ozone nonattainment areas pursuant to CAA section 182(a)(2)(C), Nonattainment New Source Review, and CAA section 182(a)(3)(B), Emissions statements. On August 12, 2020, KDAQ submitted a certification on behalf of the Louisville Metro Air Pollution Control District that included the required elements for ozone nonattainment areas pursuant to CAA section 182(a)(3)(B), Emissions statements. On April 5, 2022, EPA took final action on the portion of Kentucky’s October 15, 2020, submission related to CAA section 182(a)(2)(C), Nonattainment New Source Review. *See* 87 FR 19649. On March 9, 2022, EPA took final action on the District’s August 12, 2020, submission related to CAA section 182(a)(3)(B), Emissions statements. *See* 87 FR 13177. On April 26, 2022, EPA took final action on the portion of Kentucky’s October 15, 2020, submission related to CAA section 182(a)(3)(B), Emissions statements. *See* 87 FR 24429.

that the Cincinnati, OH-KY Area and the Louisville, KY-IN Area base year emissions inventory requirements SIP revision meets the requirements of sections 110 and 182 of the CAA with respect to the 2015 ozone NAAQS.

### **III. Statutory and Executive Order Reviews**

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. *See* 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. This action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);

- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

The SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it impose substantial direct costs on tribal governments or preempt tribal law.

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing these actions and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the *Federal Register*. A major rule cannot take effect until 60 days after it is published in the *Federal Register*. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed and shall not postpone the effectiveness of such rule(s) or

action(s). This action may not be challenged later in proceedings to enforce its requirements.

*See* section 307(b)(2).

**List of Subjects in 40 CFR Part 52**

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: September 23, 2022.

**Daniel Blackman,**

*Regional Administrator,  
Region 4.*

For the reasons stated in the preamble, EPA amends 40 CFR part 52 as follows:

## **PART 52 – APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS**

1. The authority citation for part 52 continues to read as follows:

**Authority:** 42 U.S.C. 7401 *et seq.*

### **Subpart S - Kentucky**

2. In § 52.920(e), amend the table by adding entries for “Emissions Inventory for the 2015 8-hour Ozone NAAQS for Northern Kentucky” and “Emissions Inventory for the 2015 8-hour Ozone NAAQS for Louisville” at the end of the table to read as follows:

#### **§52.920 Identification of plan.**

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(e) \* \* \*

EPA - Approved Kentucky Non-regulatory Provisions

<b>Name of non-regulatory SIP provision</b>	<b>Applicable geographic or nonattainment area</b>	<b>State submittal date/effective date</b>	<b>EPA approval date</b>	<b>Explanations</b>
**	**	*	*	*
Emissions Inventory for the 2015 8-hour Ozone NAAQS for Northern Kentucky	Boone, Campbell, and Kenton Counties (partial) in Kentucky portion of Cincinnati, OH-KY Area	10/15/2021	[Insert date of publication in FEDERAL REGISTER], [Insert citation of publication]	
Emissions Inventory for the 2015 8-hour Ozone NAAQS for Louisville	Jefferson County in its entirety, and Bullitt and Oldham Counties (partial) in Kentucky portion of Louisville, KY-IN Area	10/15/2021	[Insert date of publication in FEDERAL REGISTER], [Insert citation of publication]	